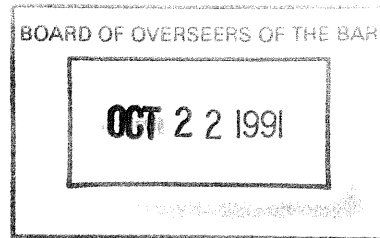


STATE OF MAINE

BEFORE THE GRIEVANCE COMMISSION:

GRIEVANCE COMMISSION  
FILE NOS. 91-S-21  
91-S-67  
91-S-92  
91-S-146  
91-S-196



BOARD OF OVERSEERS OF THE BAR, )  
 )  
 PETITIONER )  
 )  
 vs. )  
 )  
 ARTHUR H. BLOOMBERG, )  
 )  
 RESPONDENT )

REPORT OF PROCEEDINGS

On October 17, 1991 at the Cumberland County Courthouse in Portland, Maine, pursuant to a Petition dated June 19, 1991, a second Petition dated October 10, 1991 and Notice of Hearing dated September 20, 1991, a disciplinary hearing open to the public was conducted pursuant to Maine Bar Rules 7(e)(2) and 7(e)(3) to determine whether grounds existed for the issuance of a reprimand or whether probable cause existed for the filing of an information with the Court.

The Board of Overseers of the Bar was represented by Bar Counsel, J. Scott Davis. Respondent was present, representing himself pro se.

On the date of said hearing, the procedural posture of these matters was as follows. With respect to the Petition dated June 19, 1991, no responsive Answer had been filed with the Commission as is required by Bar Rule 7(e)(1). At the hearing, Respondent

made an oral Motion for Leave to File a Late Answer based upon a medical condition and his alleged incapacity at the time of the service of the Petition (June 25, 1991) and thereafter. Oral testimony was received from the Respondent to the effect that he had suffered from fatigue, anxiety and depression intermittently since the early 1970s and that the condition had reappeared during the early fall months of 1990, ultimately resulting in his being admitted to Togus Veterans Hospital on July 1, 1991. Respondent further testified that he was ultimately discharged from Togus on October 15, 1991 but that he had received weekend "passes" during the period of his hospitalization and had attended and participated in a hearing before a single justice of the Supreme Judicial Court on an unrelated disciplinary matter on September 25, 1991. Respondent additionally offered three letters from treating physicians under dates of September 21, 1990, March 22, 1991 and December 13, 1990. Cross examination disclosed that the Respondent had authored two letters under dates of July 21, 1991 and September 3, 1991 addressed to the Clerk of the Supreme Judicial Court essentially requesting a continuance of the hearing ultimately scheduled for September 25, 1991 detailing (comprehensively) portions of his career and his present medical condition. Testimony further disclosed that Respondent participated in the hearing before the single justice conducted on September 25, 1991 by giving direct testimony himself and conducting cross examination of witnesses. Later

testimony additionally disclosed that Respondent prepared a letter of enclosure under date of July 1, 1991 and forwarded a deed and a mortgage deed to the Cumberland County Registry of Deeds for recording accompanied by his office check.

Based upon this evidence, the Panel concluded that Respondent failed to demonstrate good cause for his failure to timely file his Answer finding that: (1) the letters written by his physician contemplated a period of disability from September 1990 through March of 1991 and did not address the period of time in question (following the service of the Petition on June 25, 1991); (2) that the Respondent's letters written to the Clerk of the Supreme Judicial Court under date of July 21, 1991 and September 3, 1991 evidenced a level of competency so that Respondent could have either then filed a Motion for Leave to File a Late Answer or sought the assistance of an attorney to represent him; (3) that Respondent effectively participated in the hearing conducted before the single justice on September 25, 1991 by offering evidence himself and conducting cross examination of witnesses; and (4) that Respondent's competency level did not preclude his preparation of the letter of enclosure of July 1st and the writing of his office check to the Register of Deeds, this being the date of his admission to Togus. Accordingly, the Panel denied Respondent's Motion for Leave to File a Late Answer.

With respect to the Petition dated October 10, 1991, the 20 day period as provided in said Bar Rule 7(e)(1) had not expired on the date of the hearing nor had Respondent filed his answer. By agreement between Bar Counsel and Respondent, the 20-day period within which Respondent could have filed his Answer was waived, however, Respondent was deemed to have filed his Answer orally, denying all of the allegations of the Petition. Based upon this Agreement, the hearing went forward and was deemed to include the content of the Petition dated October 10th.

On the merits, Bar Counsel presented evidence with respect to the Petitions consisting of direct testimony of the Respondent and Complainants and offered Board Exhibits 1-A through 27 with respect to the first Petition which were admitted without objection and Exhibits 1 through 8 with respect to the second Petition which were also admitted without objection. Respondent cross examined Board witnesses, offered Respondent's Exhibit 1 with respect to the first Petition and Respondent's Exhibits 1 and 2 with regard to the second Petition which were admitted without objection and testified on his own behalf.


At the conclusion of the testimony, the Panel heard summary argument from Bar Counsel and from Respondent.

Based upon the admitted exhibits, additional facts adduced from the testimony (including the admitted allegations of the Petition dated June 19, 1991 due to Respondent's failure to file


an Answer), the Respondent's admitted repeated failure to respond to Bar Counsel's investigatory inquiries as required by Maine Bar Rule 2(c), the Panel concludes that there is probable cause for Bar Counsel to file an information with the Court seeking Respondent's suspension or disbarment.

The information will be heard and determined de novo by the Court. It is therefore for the Court and not the Grievance Commission to ultimately determine which Bar Rules may have been violated and which will be controlling in the disposition of the information.

Dated: 10/18/91

  
\_\_\_\_\_  
Roger S. Elliott, Chairman

  
\_\_\_\_\_  
Louise P. James

  
\_\_\_\_\_  
Robert E. Mittel, Esq.